

REMARKS

The following Remarks supplement the Remarks set forth in applicant's Amendment filed May 12, 2006 responsive to the non-final Office Action dated November 14, 2005.

As earlier pointed out, the claims set forth in this Supplemental Amendment are identical to the claims as presented in the Amendment filed May 12, 2006 except for claim 15 which has been amended herein to call for the cylindrical distal end of the leverage end cap as having an external diameter generally similar to the diameter of the baton handle. To avoid confusion, the claims identified as being "Currently amended" in the Amendment filed May 12, 2006 are now identified as being "Previously presented" so that the claims presented in the Amendment filed May 12, 2006 show the amendments made while the corresponding numbered claims in this Supplemental Amendment are shown in their clean amended form (prior deletions not shown and prior additions not underlined).

It is also pointed out the word "service" appearing in line 6 of the first full paragraph on page 9 of the Amendment filed May 12, 2006 should read --surface--.

Enclosed herewith is a Declaration Under 37 C.F.R. §1.132 of applicant Kevin L. Parsons, Ph.D. Dr. Parsons is the Chairman and CEO of Armament Systems and Procedures, Inc. (ASP) the assignee and owner of the subject application and the invention disclosed therein. In paragraph Nos. 7 and 8 of Dr. Parsons' Declaration, he sets forth the background of his invention as explained during the March 24, 2006 telephone interview with Examiner Jackson. As stated, Dr. Parsons and his company ASP is in the business of making law enforcement equipment which is sold in approximately 77 countries. ASP has received over 100 patents on various law enforcement equipment including expandable batons which ASP has manufactured and sold since the early 1990s. As set forth in paragraph No. 8, as the need for law enforcement personnel increased, more and more individuals got involved in law enforcement that did not have the upper body strength as traditional relatively large male dominated police officers. This trend led to requests from law enforcement personnel for smaller and lighter equipment so that smaller police officers, many of whom are female and not as large as the traditional male police officers, could readily manipulate their equipment and effectively carry out their law enforcement duties without endangerment to themselves in crises situations. In effect, what was requested was a means to increase the striking force potential of batons that were made shorter in length and thereby lacked the striking force capable with longer heavier batons. This


applicant's Amendment filed May 12, 2006 and in the accompanying Parsons' Declaration, gripping the Hustad pressure point device as suggested by the Examiner would not only be uncomfortable, but would tend to expand the user's hand while at the same time the user is trying to contract the little finger around the reduced diameter intermediate shaft 16. This would make it difficult at best to use the little finger position as the fulcrum point for increasing the leverage force applied by the baton when striking an object, thereby significantly inhibiting one from readily achieving the result called for in applicant's pending claims. It is also respectfully pointed out that the Ashihara reference specifically states that the outer circumferential surface 8c "is gripped with a thumb and forefinger being positioned there around." (Col. 7, lines 32-34.) Moreover, the upper member 8 on the Ashihara crosshandle is rotatable and does meet many of the structural features called for in applicant's claims. Again, the Examiner has provided no basis for how the Hustad and Ashihara references would motivate one to modify the pressure point device of Hustad to achieve the claimed leverage end cap or method of increasing the leverage impact force obtainable with a baton as called for in applicant's pending claims. As stated in *In re Rouffet*, *supra*, at 1357: "To prevent the use of hindsight based on the [applicant's] invention to defeat patentability of the invention, this court [the Federal Circuit] requires the examiner to show a motivation to combine the references that create the case of obviousness."

Accordingly, in view of the foregoing, allowance of claims 1-10, 12-16 and 18-22 as presently pending in the application is believed to be in order and such action is earnestly solicited.

Should the Examiner determine that a telephone conference would expedite prosecution of the application, it is respectfully requested that he initiate such a discussion.

Respectfully submitted,

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